

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

# **MONTHLY MANAGEMENT**

## **JULY 2004**

August 11, 2004

APPENDED TO EXECUTIVE OFFICER REPORT

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### **CONTENTS**

Significant NPDES Permits, WDRs, and RB Actions—August 11, 2004

[illegible]

DATE OF REPORT AUGUST 11, 2004												
NAME OF PERMIT/WDR/RB ACTION	Action Type	Initial Document Application Complete	Dish/RWQ Limits and Monitoring Plan Known	Draft Complete	Public Rev. & Comment	BOARD HEARING & ADOPTION	Consent Item	COMMENTS	Staff			
OCTOBER 13, 2004 RB MEETING AT RANCHO CALF. WATER DISTRICT												
SO. CALIF. EDISON CO. SAN ONOFRE NUCLEAR POWER STATION UNIT NOS. 2, and 3	NPDES Permit Renewal	100%	80%	30%	0%	October 13, 2004	No	NPDES Workplan FY 2004-05	Navrozali			
ENFORCEMENT SUMMARY REPORT ON VIOLATIONS AND ENFORCEMENT ACTIONS	Status Report	NA	NA	0%	0%	October 13, 2004	No	Annual Report on violations and enforcement actions	Alpert			
DS WATERS OF AMERICA LP SPARKLETT'S LAKESIDE FACILITY	Revision WDRs	100%	90%	10%	0%	October 13, 2004	Yes		Knedlik			
NOVEMBER 10, 2004 RB MEETING AT RB OFFICE												
NATIONAL STEEL AND SHIPBUILDING CO. SAN DIEGO BAY SEDIMENT CLEANUP	Public Testimony CAO	NA	NA	40%	0%	November 10, 2004	No	Conduct hearing	Carlisle			
SOUTHWEST MARINE SAN DIEGO BAY SEDIMENT CLEANUP	Public Testimony CAO	NA	NA	40%	0%	November 10, 2004	No	Concuct hearing	Carlisle			
TOT. MAX DAILY LOAD--SHELTER ISL YACHT BASIN SAN DIEGO BAY--DISSOLVED COPPER	Basin Plan Amendment	NA	100%	0%	0%	November 10, 2004	No	Consider adoption of Basin Plan Amendment	Dobalian			
SAN ELIJO JOINT POWERS AUTHORITY SAN ELIJO WPCF	NPDES Permit Renewal	80%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Kelley			
CITY OF ESCONDIDO HALE AVE. RESOURCE RECOVERY FACILITY	NPDES Permit Renewal	80%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Kelley			
UNIV. OF CALIFORNIA SCRIPPS INSTITUTION OF OCEANOGRAPHY	NPDES Permit Renewal	100%	80%	0%	0%	November 10, 2004	TBD	NPDES Workplan FY 2004-05	Phillips			
MISSION VALLEY TERMINALS ADDENDUM TO CAO NO. 92-01	Hearing: CAO	NA	25%	0%	0%	November 10, 2004	TBD		Dorsey			
DECEMBER 8, 2004 RB MEETING AT RB OFFICE												
GREGORY CANYON LANDFILL NORTH SAN DIEGO COUNTY	New WDRs	90%	10%	0%	0%	December 8, 2004	No		Tamaki			
NATIONAL STEEL AND SHIPBUILDING CO. SAN DIEGO BAY SEDIMENT CLEANUP	Adoption: CAO	NA	NA	0%	0%	December 8, 2004	No		Carlisle			
SOUTHWEST MARINE SAN DIEGO BAY SEDIMENT CLEANUP	Adoption: CAO	NA	NA	0%	0%	December 8, 2004	No		Carlisle			

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## SANITARY SEWER OVERFLOW STATISTICS (Updated through July 31, 2004)

SEWAGE COLLECTION AGENCY	SYSTEM SIZE <sup>B</sup>		NO. OF SEWAGE SPILLS [LISTED BY FISCAL YEAR (FY) - JULY 1 THROUGH JUNE 30]				SPILLS PER 100 MILES (LISTED BY FY)				SPILL VOLUME 2004-05 <sup>A</sup>	
	Miles	MGD	01-02	02-03	03-04 <sup>A</sup>	04-05 <sup>A</sup>	01-02	02-03	03-04 <sup>A</sup>	04-05 <sup>A</sup>	GAL	GAL/MG <sup>D</sup>
<b>ORANGE COUNTY:</b>												
EL TORO WD	55	2.2	3	1	3	1	5.5	1.8	5.5	1.8	60	0.9
EMERALD BAY SERVICE DISTRICT	6	0.09	0	0	0	1	0.0	0.0	0.0	16.7	350	120.1
IRVINE RANCH WD	36	2.0	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
LAGUNA BEACH, CITY OF	95	2.4	10	27	9	1	10.5	28.4	9.5	1.1	250	3.4
MOULTON NIGUEL WD	530	13.0	2	1	2	0	0.4	0.2	0.4	0.0	0	0.0
SAN CLEMENTE, CITY OF	179	4.5	6	7	4	0	3.3	3.9	2.2	0.0	0	0.0
SAN JUAN CAPISTRANO, CITY OF	100	3.4	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
SANTA MARGARITA WD	546	10.7	12	4	6	0	2.2	0.7	1.1	0.0	0	0.0
SOUTH COAST CWD	132	4.0	5	8	9	1	3.8	6.1	6.8	0.8	20	0.2
TRABUCO CANYON WD	43	0.72	0	0	1	0	0.0	0.0	2.3	0.0	0	0.0
<b>RIVERSIDE COUNTY:</b>												
EASTERN MWD	446	10.0	1	3	7	0	0.2	0.7	1.6	0.0	0	0.0
ELSINORE VALLEY MWD	80	2.0	0	0	1	0	0.0	0.0	1.3	0.0	0	0.0
MURRIETA MWD	25	0.52	E	E	1	0	E	E	4.0	0.0	0	0.0
RANCHO CA WD	71	2.9	2	0	1	0	2.8	0.0	1.4	0.0	0	0.0
<b>SAN DIEGO COUNTY:</b>					0	0						
BUENA SANITARY DISTRICT	84	1.9	0	2	1	0	0.0	2.4	1.2	0.0	0	0.0
CARLSBAD MWD	214	7.2	15	6	8	0	7.0	2.8	3.7	0.0	0	0.0
CHULA VISTA, CITY OF	400	16.0	6	3	6	0	1.5	0.8	1.5	0.0	0	0.0
CORONADO, CITY OF	53	3.8	5	2	2	0	9.4	3.8	3.8	0.0	0	0.0
DEL MAR, CITY OF	30	1.1	2	7	1	0	6.7	23.4	3.3	0.0	0	0.0
EL CAJON, CITY OF	198	9.1	2	3	0	0	1.0	1.5	0.0	0.0	0	0.0
ENCINITAS, CITY OF	118	4.1	2	6	2	1	1.7	5.1	1.7	0.8	3,500	27.5
ESCONDIDO, CITY OF	350	10.8	14	3	3	0	4.0	0.9	0.9	0.0	0	0.0
FAIRBANKS RANCH COMM SERV DIST	15	0.21	0	0	1	0	0.0	0.0	6.6	0.0	0	0.0
FALLBROOK PUBLIC UTILITY DIST <sup>C</sup>	72	2.0	17	22	7	0	23.6	30.6	9.7	0.0	0	0.0
IMPERIAL BEACH, CITY OF	84	2.2	1	14	2	0	1.2	16.7	2.4	0.0	0	0.0
LA MESA, CITY OF	155	5.8	12	3	3	0	7.7	1.9	1.9	0.0	0	0.0
LEMON GROVE, CITY OF	69	2.4	9	4	4	1	13.0	5.8	5.8	1.4	47,250	630.6

# **SANITARY SEWER OVERFLOW STATISTICS (Updated through July 31, 2004)**

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	Miles	MGD	01-02	02-03	03-04 <sup>A</sup>	04-05 <sup>A</sup>	01-02	02-03	03-04 <sup>A</sup>	04-05 <sup>A</sup>	GAL	GAL/MG <sup>D</sup>
<b>SAN DIEGO COUNTY (continued):</b>												
LEUCADIA CWD	185	4.2	5	6	1	0	2.7	3.2	0.5	0.0	0	0.0
NATIONAL CITY, CITY OF	97	5.1	0	1	2	0	0.0	1.0	2.1	0.0	0	0.0
OCEANSIDE, CITY OF, WTR UTIL DEP	446	13.0	17	23	22	0	3.8	5.2	4.9	0.0	0	0.0
OLIVENHAIN MWD	16	0.39	1	2	0	1	6.3	12.5	0.0	6.3	0	0.0
OTAY MWD	86	1.4	0	3	1	0	0.0	3.5	1.2	0.0	0	0.0
PADRE DAM MWD	150	5.1	4	3	2	0	2.7	2.0	1.3	0.0	0	0.0
PAUMA VALLEY COMM SERVICE DIS	8	0.07	0	0	0	0	0.0	0.0	0.0	0.0	0	0.0
POWAY, CITY OF	170	4.0	1	5	4	0	0.6	2.9	2.4	0.0	0	0.0
RAINBOW MWD	54	0.74	2	2	5	1	3.7	3.7	9.2	1.8	100	4.4
RAMONA MWD	83	1.3	5	2	2	0	6.0	2.4	2.4	0.0	0	0.0
RANCHO SANTA FE COMM SERV DIST	52	0.44	1	1	0	0	1.9	1.9	0.0	0.0	0	0.0
SAN DIEGO CO, PUBLIC WORKS	380	11.0	4	11	2	0	1.1	2.9	0.5	0.0	0	0.0
SAN DIEGO, CITY OF, MWWD	2,894	170	226	193	119	7	7.8	6.7	4.1	0.2	2,837	0.5
SOLANA BEACH, CITY OF	52	1.2	2	1	5	0	3.8	1.9	9.6	0.0	0	0.0
USMC BASE, CAMP PENDLETON	194	3.1	18	23	10	0	9.3	11.9	5.2	0.0	0	0.0
US NAVY	123	4.0	24	12	15	1	19.5	9.8	12.2	0.8	750	6.0
VALLECITOS WD	202	6.1	4	5	4	1	2.0	2.5	2.0	0.5	170	0.9
VALLEY CENTER MWD	48	0.32	0	3	1	0	0.0	6.3	2.1	0.0	0	0.0
VISTA, CITY OF	198	6.5	4	4	8	0	2.0	2.0	4.0	0.0	0	0.0
WHISPERING PALMS COMM SERV DIS	17	0.26	1	1	0	0	5.8	5.8	0.0	0.0	0	0.0
<b>REGION 9 TOTAL</b>	<b>9640</b>	<b>363</b>	<b>445</b>	<b>427</b>	<b>287</b>	<b>17</b>					<b>55,287</b>	
<b>AVERAGE<sup>1</sup></b>							<b>4.6</b>	<b>4.4</b>	<b>3.0</b>	<b>0.2</b>		<b>17</b>
<b>STANDARD DEVIATION<sup>2</sup></b>							<b>5.0</b>	<b>7.0</b>	<b>3.1</b>	<b>2.6</b>		<b>93</b>
<b>MEDIAN<sup>3</sup></b>							<b>2.4</b>	<b>2.4</b>	<b>2.1</b>	<b>0.0</b>		<b>0</b>

<sup>A</sup> Includes available preliminary data for January - July 2004 and may not include all spills less than 1,000 gallons that did not enter surface waters or storm drains during this period.

<sup>B</sup> As of June 2003.

<sup>C</sup> Does not include 11 SSOs in 2000-2001 which occurred from private property but are the responsibility of the Fallbrook PUD according to its own existing policies at the time.

<sup>D</sup> Volume of spills for the period in gallons divided by the amount conveyed for the period in million gallons

<sup>E</sup> Included with Eastern MWD

<sup>1</sup> The average is the sum of all values divided by the number of values.

<sup>2</sup> In a normally distributed set of values, 68% of the values are within one standard deviation either above or below the average value.

<sup>3</sup> The median is the middle value in a set; half the values are above the median, and half are below the median.



# California Regional Water Quality Control Board

## San Diego Region



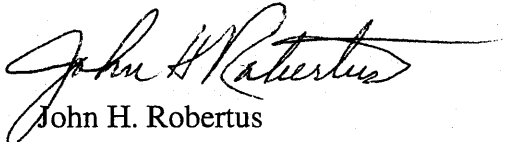
**Terry Tamminen**  
Secretary for  
Environmental  
Protection

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(858) 467-2952 • Fax (858) 571-6972  
<http://www.swrcb.ca.gov/rwqcb9>

**Arnold Schwarzenegger**  
Governor

*ATTACHMENT B-3a*

**TO:** Barbara Evoy, Chief  
Division of Financial Assistance  
STATE WATER RESOURCES CONTROL BOARD

**FROM:**   
John H. Robertus  
Executive Officer  
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

**DATE:** July 28, 2004

**SUBJECT:** SWRCB CONTRACT #02-036-259 FOR THE OTAY RIVER  
WATERSHED MANAGEMENT PLAN

This memo is to recommend termination of the above referenced contract. The County of San Diego's Otay River Watershed Management Plan project has fallen severely behind schedule and can no longer be completed in the time remaining to the grantee.

### Project Background

On May 17, 2001, the State Water Resources Control Board (SWRCB) awarded the County of San Diego (County) a Proposition 13 grant to prepare the Otay River Watershed Management Plan (WMP). SWRCB Contract #02-036-259 for the project was executed on August 26, 2002, and the WMP was to be completed within the 32-month contract term - August 1, 2002 through March 31, 2005. The project was funded with Proposition 13 Watershed Protection Program grant funds of \$200,000 and County matching funds of \$745,405 to provide a total budget of \$945,405 to complete the WMP.

### Project Status/Deficiencies

According to the contract schedule, incorporation of public comment into the final WMP should be well underway at this time, following at least eight public meetings to solicit stakeholder input into the draft WMP and a 45-day public review period.

*California Environmental Protection Agency*



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As of July 27, 2004, after nearly 2 years, the County has achieved very little progress on the WMP. In particular, it should be noted that:

1. Only two public kick-off meetings (June 26 and August 13, 2003) and two public stakeholder meetings (June 22 and July 7, 2004) have been held;
2. On March 24, 2004, the County, the San Diego Unified Port District, and the Cities of Chula Vista and Imperial Beach signed the signed Joint Executive Power Agreement (JEPA), which was due August 31, 2002. This instrument was approximately 19 months late and is still being revised;
3. The County-led WMP team has spent an inordinate amount of time on a separate United State Army Corps of Engineers Special Area Management Plan (SAMP). The SAMP is not an Otay WMP contractual requirement and is not a feature of County-led watershed management planning efforts in other watersheds. This distracting effort to link two independent planning processes with disparate timelines and objectives appears to have directly contributed to the serious delays of the WMP effort;
4. Beginning in August 2003, the County requested contract modifications to postpone deliverable due dates, but in each case the County either failed to provide information (i.e. new deliverable due dates) requested by the Regional Board or provided information that did not conform to Regional Board direction. In addition, the Regional Board repeatedly reminded the County that the final project deadline of March 1, 2005 could not be extended;
5. Significant tasks that precede preparation of the draft WMP are still incomplete. The Watershed Assessment due August 2003 has not been submitted and work on the Function and Values Report due March 2004 has not been started. Neither of these documents has been discussed at recent County-led meetings;
6. Work on the draft WMP that was due May 2004 has not yet begun; and
7. To date, only 5% of grant funds have been invoiced, with 24 months having elapsed in a 32-month contract.

After repeated efforts by the San Diego Regional Water Quality Control Board (Regional Board) to impress upon the County staff these shortcomings and to initiate urgent action to save the project, a notable lack of progress has been made by the County on the Otay WMP. It is clear that the WMP is seriously behind schedule as well as behind concurrent WMP efforts in other watersheds that were also funded by Proposition 13 in 2001.

Problem Statement

Insufficient time remains in the contract term for the contractual work to be completed and the leadership of the County staff has not provided the necessary opportunities for diverse and timely stakeholder participation in satisfaction of the terms of the contract and development of the Otay WMP.

Since the contract deadline of March 31, 2005 cannot be extended, there is insufficient time remaining in the grant contract to develop the WMP and include meaningful stakeholder participation in the watershed planning process. Less than five months remain to complete the 11 prerequisite tasks and prepare a draft WMP by mid-November 2004. The draft WMP must be complete by November in order for the County to: 1) provide the minimum amount of time before the end of the contract term for the 45-day public review period of the draft WMP; 2) incorporate the comments into the final WMP; and 3) submit the required draft and final project reports. Preparation of the draft WMP and supporting documents that should have been accomplished over a 28-month period would now have to be compressed into 5 months. There is insufficient time remaining to make up the work necessary to complete the project.

On May 5, 2004, after several previous efforts to raise awareness of the shortening project time, the Regional Board met with County staff to discuss our concerns with the project. Since then, the Regional Board has attended five WMP meetings conducted by the County – three internal meetings (Project Team) and two public meetings (Working Group). With the exception of the June 22, 2004 stakeholder meeting, these meetings were inadequately noticed and unproductive. At these meetings the Regional Board made clear its concerns that the project was behind schedule, recommended that additional meetings be scheduled, and that contractual deliverables and work directly related to the WMP needed to be the focus of these meetings.

The Regional Board has repeatedly attempted to facilitate the timely return to schedule of the project, but has not found the County staff willing to work closely and efficiently with us to address the many difficulties facing this project. Rather, we have observed that both County-led teams continue to focus their time and effort almost exclusively on JEPA and SAMP issues rather than the Otay WMP itself. In addition, we have observed that the stakeholder Working Group is struggling under poor leadership from the County to understand the confusing organizational structure of the WMP effort, the work expected from it, and the limitations on the Working Group's role in the WMP and SAMP processes. It should be noted that neither of the County-led teams have yet to substantively discuss any of the required components of the WMP, many of which are nearly a year overdue. Relatively minor issues raised in these meetings such as regular updates of the website and distribution of draft documents and information remain incomplete. This notable lack of progress in completing the contractual WMP tasks was reported to the Regional Board and discussed at the July 12, 2004 Regional Board meeting.

The Regional Board is concerned that the delays in achieving project milestones in this watershed have been exacerbated by a confused and rushed approach to watershed management planning that is not consistent with the sound watershed management planning and stakeholder involvement seen in the efforts pursued by the County in other watersheds (e.g. Tijuana River) with significant success. With respect to this project, the County staff has not demonstrated a commitment to change the manner in which they lead the WMP effort and satisfy the contractual requirements. It is the Regional Board's assessment that:

1. Little progress has been made in the development of WMP during the last year or improvement in the County leadership of the effort since our May 5, 2004 meeting;
2. The very limited time remaining in the contract forecloses the opportunity for meaningful stakeholder input to the WMP; and
3. The contract deliverables can no longer be satisfactorily completed within the contract timeframe.

#### Recommendation

The Regional Board is committed to supporting stakeholder driven watershed management planning and the coordination of local planning efforts with watershed management. Nonetheless, for the aforementioned reasons, I respectfully recommend that, unless the County can show just cause to the contrary, the State Water Resources Control Board terminate the SWRCB Contract No. 02-036-259 for the Otay River Watershed Management Plan. I further recommend that additional invoices received from the County on this project be carefully reviewed to determine whether the work performed was directly relevant to the completion of the Otay WMP. If you have any questions regarding this matter, please contact David Gibson of my staff at (858) 467-4387 or [gibsd@rb9.swrcb.ca.gov](mailto:gibsd@rb9.swrcb.ca.gov).

cc: Tracy Cline, Project Director  
Department of Planning and Land Use, MSCP Division  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Tom Oberbauer, Chief  
Department of Planning and Land Use, MSCP Division  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Ms. Barbara Evoy

- 5 -

July 28, 2004

Alice Stebbins, Assistant Division Chief  
State Water Resources Control Board  
Division of Financial Assistance  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA. 95814

***California Environmental Protection Agency***

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**GARY L. PRYOR**  
DIRECTOR

## County of San Diego

### DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666  
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**EL CAJON OFFICE**  
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EL CAJON, CA 92020-3912  
(619) 441-4030

July 29, 2004

VIA E-MAIL: [mitsj@dwq.swrcb.ca.gov](mailto:mitsj@dwq.swrcb.ca.gov)

ORIGINAL TO FOLLOW VIA U.S. MAIL

#### **URGENT**

Ms. Janie Mitsunashi  
Program Analyst  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, CA 94244-2120

Dear Ms. Mitsunashi:

This emailed-letter is in response to correspondence dated July 28, 2004 from John H. Robertus, Executive Officer of the San Diego Regional Water Quality Control Board (RWQCB) to Barbara Evoy, Chief, Division of Financial Assistance, State Water Resources Control Board (SWRCB) and pursuant to a telephone conversation this morning with Mr. David Gibson, of the RWQCB today, July 29, 2004.

The County of San Diego respectfully requests that we be allowed to continue developing the Otay River Watershed Management Plan (WMP) under SWRCB Contract #02-036-259.

Watershed planning is a very important initiative to the County of San Diego as demonstrated by its commitments under other contracts with the SWRCB in the Santa Margarita, San Diego and Tijuana River watersheds and our establishment, ongoing leadership and participation in Project Clean Water. In addition, the County Board of Supervisors has appropriated additional County General Funds in the amount of more than \$800,000 toward these efforts.

We respectfully request that the SWRCB accept the proposed modifications to the WMP program below as our pledge to complete the Otay River WMP in conformance with Contract No. 02-036-259 and our assurance that we will perform our contractual obligations as required:

- Project Directorship for this contract will be transferred to Trish Boaz, Environmental Resource Manager with the Department of Planning and Land Use. A formal change request pursuant to the terms of the contract will be sent under separate cover.
- Effective immediately, the County will separate the WMP from the Otay River Special Area Management Plan (SAMP) and will direct its consultant to concentrate efforts solely on the contract deliverables related to the WMP until the end of the contract period.
- The Working Group (stakeholders) and Project Team (staff) meetings will be merged and held on a twice-monthly basis until the end of the contract period.
- Meetings will be bolstered by:
  - An expedited schedule to be provided under separate cover for your review and consideration.
  - Provision of notice, agendas and backup materials in a timely fashion to allow adequate stakeholder review and input of all project deliverables.
  - Direction to consultant to be present for the entire length of the meetings.

Although only seven months remain on the term of the contract, the County believes that by implementing these changes immediately, we will be able to develop a quality, stakeholder-driven WMP to the satisfaction of the SWRCB.

We look forward to continuing our strong working relationship with SWRCB and RWQCB. Further, we respectfully request consideration be given to the changes proposed above and that SWRCB allow the County to proceed on the development of this WMP. The County takes its responsibility to protect the region's watersheds very seriously.

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Mitsubishi  
July 29, 2004

If you have any questions, please feel free to contact me (858-694-3701) or Trish Boaz of my staff at (858) 694-3075.

Sincerely,

TOM OBERBAUER, Chief  
Multiple Species Conservation Program  
County of San Diego  
Department of Planning and Land Use

cc: Mr. John Robertus, Executive Officer, RWQCB  
Mr. David Gibson, Senior Environmental Scientist Grants and Projects  
Assistance, RWQCB  
Mr. Robert R. Copper, Deputy Chief Administrative Officer  
Mr. Gary L. Pryor, Planning Director  
Mr. Ivan Holler, Deputy Planning Director  
Ms. Trish Boaz, Environmental Resource Manager



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

## Division of Financial Assistance

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Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120  
FAX (916) 341-5707 • Internet Address: !



**Arnold Schwarzenegger**  
Governor

ATTACHMENT B-3c

JUL 30 2004

Mr. Tom Oberbauer, Chief  
Multiple Species Conservation Program  
County of San Diego  
Department of Planning and Land Use  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Dear Mr. Oberbauer:

### PROPOSITION 13 CONTRACT NO. 02-036-259-0, "OTAY RIVER WATERSHED MANAGEMENT PLAN"--NOTICE OF TERMINATION

Thank you for your letter, received on July 29, 2004 via e-mail (Enclosure 1), in response to the letter from Mr. John Robertus, Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board), dated July 28, 2004 (Enclosure 2). Mr. Robertus recommended termination of the above contract for reasons stated in the letter, and he provided facts to support the Regional Board's decision. Upon review of the contract file, and after consultation with legal staff of the State Water Resources Control Board's Office of Chief Counsel, we must agree with and support the Regional Board's recommendation.

While we appreciate your attempt to rectify the problems that have hampered the project, we do not feel that the project as described in the contract, and agreed to by the County of San Diego (County) by entering into contract with the State, can be completed within the timeframe of the contract term. Therefore, under authorization of the contract Standard Agreement Termination clause (Exhibit D, No. 9) and General Terms and Conditions (Exhibit C, No. 7 and No. 12), we are terminating this contract. The County may appeal this decision within 30 days of the date of this letter. The appeal should be addressed to:

Ms. Barbara Evoy, Chief  
Division of Financial Assistance  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814.

*Handwritten notes:*  
JMC 8/2  
cut line 8/13  
Doubt 6 AUG 8/15  
mm 8/5/04  
2004 AUG -2 A 8:52  
REGIONAL WATER QUALITY CONTROL BOARD





*County of San Diego*

**GARY L. PRYOR**  
DIRECTOR

**DEPARTMENT OF PLANNING AND LAND USE**

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666  
INFORMATION (858) 694-2960  
TOLL FREE (800) 411-0017

**SAN MARCOS OFFICE**  
338 VIA VERA CRUZ • SUITE 201  
SAN MARCOS, CA 92069-2620  
(760) 471-0730

**EL CAJON OFFICE**  
200 EAST MAIN ST. • SIXTH FLOOR  
EL CAJON, CA 92020-3912  
(619) 441-4030

July 29, 2004

VIA E-MAIL: [mitsj@dwq.swrcb.ca.gov](mailto:mitsj@dwq.swrcb.ca.gov)

ORIGINAL TO FOLLOW VIA U.S. MAIL

**URGENT**

Ms. Janie Mitsuhashi  
Program Analyst  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, CA 94244-2120

Dear Ms. Mitsuhashi:

This emailed-letter is in response to correspondence dated July 28, 2004 from John H. Robertus, Executive Officer of the San Diego Regional Water Quality Control Board (RWQCB) to Barbara Evoy, Chief, Division of Financial Assistance, State Water Resources Control Board (SWRCB) and pursuant to a telephone conversation this morning with Mr. David Gibson, of the RWQCB today, July 29, 2004.

The County of San Diego respectfully requests that we be allowed to continue developing the Otay River Watershed Management Plan (WMP) under SWRCB Contract #02-036-259.

Watershed planning is a very important initiative to the County of San Diego as demonstrated by its commitments under other contracts with the SWRCB in the Santa Margarita, San Diego and Tijuana River watersheds and our establishment, ongoing leadership and participation in Project Clean Water. In addition, the County Board of Supervisors has appropriated additional County General Funds in the amount of more than \$800,000 toward these efforts.

We respectfully request that the SWRCB accept the proposed modifications to the WMP program below as our pledge to complete the Otay River WMP in conformance with Contract No. 02-036-259 and our assurance that we will perform our contractual obligations as required:

1004 AUG -2 A 8:52  
SAN DIEGO REGIONAL  
WATER QUALITY  
CONTROL BOARD

- Project Directorship for this contract will be transferred to Trish Boaz, Environmental Resource Manager with the Department of Planning and Land Use. A formal change request pursuant to the terms of the contract will be sent under separate cover.
- Effective immediately, the County will separate the WMP from the Otay River Special Area Management Plan (SAMP) and will direct its consultant to concentrate efforts solely on the contract deliverables related to the WMP until the end of the contract period.
- The Working Group (stakeholders) and Project Team (staff) meetings will be merged and held on a twice-monthly basis until the end of the contract period.
- Meetings will be bolstered by:
  - An expedited schedule to be provided under separate cover for your review and consideration.
  - Provision of notice, agendas and backup materials in a timely fashion to allow adequate stakeholder review and input of all project deliverables.
  - Direction to consultant to be present for the entire length of the meetings.

Although only seven months remain on the term of the contract, the County believes that by implementing these changes immediately, we will be able to develop a quality, stakeholder-driven WMP to the satisfaction of the SWRCB.

We look forward to continuing our strong working relationship with SWRCB and RWQCB. Further, we respectfully request consideration be given to the changes proposed above and that SWRCB allow the County to proceed on the development of this WMP. The County takes its responsibility to protect the region's watersheds very seriously.

Page 3  
Mitsuhashi  
July 29, 2004

If you have any questions, please feel free to contact me (858-694-3701) or Trish Boaz of my staff at (858) 694-3075.

Sincerely,

TOM OBERBAUER, Chief  
Multiple Species Conservation Program  
County of San Diego  
Department of Planning and Land Use

cc: Mr. John Robertus, Executive Officer, RWQCB  
Mr. David Gibson, Senior Environmental Scientist Grants and Projects  
Assistance, RWQCB  
Mr. Robert R. Copper, Deputy Chief Administrative Officer  
Mr. Gary L. Pryor, Planning Director  
Mr. Ivan Holler, Deputy Planning Director  
Ms. Trish Boaz, Environmental Resource Manager



# California Regional Water Quality Control Board

## San Diego Region



**erry Tamminen**  
Secretary for  
Environmental  
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.swrcb.ca.gov/rwqcb9>

**Arnold Schwarzenegger**  
Governor

**TO:** Barbara Evoy, Chief  
Division of Financial Assistance  
STATE WATER RESOURCES CONTROL BOARD

**FROM:**   
John H. Robertus  
Executive Officer  
SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

**DATE:** July 28, 2004

**SUBJECT:** SWRCB CONTRACT #02-036-259 FOR THE OTAY RIVER  
WATERSHED MANAGEMENT PLAN

This memo is to recommend termination of the above referenced contract. The County of San Diego's Otay River Watershed Management Plan project has fallen severely behind schedule and can no longer be completed in the time remaining to the grantee.

### Project Background

On May 17, 2001, the State Water Resources Control Board (SWRCB) awarded the County of San Diego (County) a Proposition 13 grant to prepare the Otay River Watershed Management Plan (WMP). SWRCB Contract #02-036-259 for the project was executed on August 26, 2002, and the WMP was to be completed within the 32-month contract term - August 1, 2002 through March 31, 2005. The project was funded with Proposition 13 Watershed Protection Program grant funds of \$200,000 and County matching funds of \$745,405 to provide a total budget of \$945,405 to complete the WMP.

### Project Status/Deficiencies

According to the contract schedule, incorporation of public comment into the final WMP should be well underway at this time, following at least eight public meetings to solicit stakeholder input into the draft WMP and a 45-day public review period.

As of July 27, 2004, after nearly 2 years, the County has achieved very little progress on the WMP. In particular, it should be noted that:

1. Only two public kick-off meetings (June 26 and August 13, 2003) and two public stakeholder meetings (June 22 and July 7, 2004) have been held;
2. On March 24, 2004, the County, the San Diego Unified Port District, and the Cities of Chula Vista and Imperial Beach signed the signed Joint Executive Power Agreement (JEPA), which was due August 31, 2002. This instrument was approximately 19 months late and is still being revised;
3. The County-led WMP team has spent an inordinate amount of time on a separate United State Army Corps of Engineers Special Area Management Plan (SAMP). The SAMP is not an Otay WMP contractual requirement and is not a feature of County-led watershed management planning efforts in other watersheds. This distracting effort to link two independent planning processes with disparate timelines and objectives appears to have directly contributed to the serious delays of the WMP effort;
4. Beginning in August 2003, the County requested contract modifications to postpone deliverable due dates, but in each case the County either failed to provide information (i.e. new deliverable due dates) requested by the Regional Board or provided information that did not conform to Regional Board direction. In addition, the Regional Board repeatedly reminded the County that the final project deadline of March 1, 2005 could not be extended;
5. Significant tasks that precede preparation of the draft WMP are still incomplete. The Watershed Assessment due August 2003 has not been submitted and work on the Function and Values Report due March 2004 has not been started. Neither of these documents has been discussed at recent County-led meetings;
6. Work on the draft WMP that was due May 2004 has not yet begun; and
7. To date, only 5% of grant funds have been invoiced, with 24 months having elapsed in a 32-month contract.

After repeated efforts by the San Diego Regional Water Quality Control Board (Regional Board) to impress upon the County staff these shortcomings and to initiate urgent action to save the project, a notable lack of progress has been made by the County on the Otay WMP. It is clear that the WMP is seriously behind schedule as well as behind concurrent WMP efforts in other watersheds that were also funded by Proposition 13 in 2001.

Problem Statement

Insufficient time remains in the contract term for the contractual work to be completed and the leadership of the County staff has not provided the necessary opportunities for diverse and timely stakeholder participation in satisfaction of the terms of the contract and development of the Otay WMP.

Since the contract deadline of March 31, 2005 cannot be extended, there is insufficient time remaining in the grant contract to develop the WMP and include meaningful stakeholder participation in the watershed planning process. Less than five months remain to complete the 11 prerequisite tasks and prepare a draft WMP by mid-November 2004. The draft WMP must be complete by November in order for the County to: 1) provide the minimum amount of time before the end of the contract term for the 45-day public review period of the draft WMP; 2) incorporate the comments into the final WMP; and 3) submit the required draft and final project reports. Preparation of the draft WMP and supporting documents that should have been accomplished over a 28-month period would now have to be compressed into 5 months. There is insufficient time remaining to make up the work necessary to complete the project.

On May 5, 2004, after several previous efforts to raise awareness of the shortening project time, the Regional Board met with County staff to discuss our concerns with the project. Since then, the Regional Board has attended five WMP meetings conducted by the County – three internal meetings (Project Team) and two public meetings (Working Group). With the exception of the June 22, 2004 stakeholder meeting, these meetings were inadequately noticed and unproductive. At these meetings the Regional Board made clear its concerns that the project was behind schedule, recommended that additional meetings be scheduled, and that contractual deliverables and work directly related to the WMP needed to be the focus of these meetings.

The Regional Board has repeatedly attempted to facilitate the timely return to schedule of the project, but has not found the County staff willing to work closely and efficiently with us to address the many difficulties facing this project. Rather, we have observed that both County-led teams continue to focus their time and effort almost exclusively on JEPa and SAMP issues rather than the Otay WMP itself. In addition, we have observed that the stakeholder Working Group is struggling under poor leadership from the County to understand the confusing organizational structure of the WMP effort, the work expected from it, and the limitations on the Working Group's role in the WMP and SAMP processes. It should be noted that neither of the County-led teams have yet to substantively discuss any of the required components of the WMP, many of which are nearly a year overdue. Relatively minor issues raised in these meetings such as regular updates of the website and distribution of draft documents and information remain incomplete. This notable lack of progress in completing the contractual WMP tasks was reported to the Regional Board and discussed at the July 12, 2004 Regional Board meeting.

The Regional Board is concerned that the delays in achieving project milestones in this watershed have been exacerbated by a confused and rushed approach to watershed management planning that is not consistent with the sound watershed management planning and stakeholder involvement seen in the efforts pursued by the County in other watersheds (e.g. Tijuana River) with significant success. With respect to this project, the County staff has not demonstrated a commitment to change the manner in which they lead the WMP effort and satisfy the contractual requirements. It is the Regional Board's assessment that:

1. Little progress has been made in the development of WMP during the last year or improvement in the County leadership of the effort since our May 5, 2004 meeting;
2. The very limited time remaining in the contract forecloses the opportunity for meaningful stakeholder input to the WMP; and
3. The contract deliverables can no longer be satisfactorily completed within the contract timeframe.

Recommendation

The Regional Board is committed to supporting stakeholder driven watershed management planning and the coordination of local planning efforts with watershed management. Nonetheless, for the aforementioned reasons, I respectfully recommend that, unless the County can show just cause to the contrary, the State Water Resources Control Board terminate the SWRCB Contract No. 02-036-259 for the Otay River Watershed Management Plan. I further recommend that additional invoices received from the County on this project be carefully reviewed to determine whether the work performed was directly relevant to the completion of the Otay WMP. If you have any questions regarding this matter, please contact David Gibson of my staff at (858) 467-4387 or [gibsd@rb9.swrcb.ca.gov](mailto:gibsd@rb9.swrcb.ca.gov).

cc: Tracy Cline, Project Director  
Department of Planning and Land Use, MSCP Division  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Tom Oberbauer, Chief  
Department of Planning and Land Use, MSCP Division  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Ms. Barbara Evoy

- 5 -

July 28, 2004

Alice Stebbins, Assistant Division Chief  
State Water Resources Control Board  
Division of Financial Assistance  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA. 95814





**Terry Tamminen**  
Secretary for  
Environmental  
Protection

# State Water Resources Control Board

## Division of Financial Assistance

1001 I Street • Sacramento, California 95814 • (916) 341-5700  
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120  
FAX (916) 341-5707 • Internet Address: <http://www.swrcb.ca.gov>



**Arnold Schwarzenegger**  
Governor

ATTACHMENT B-3d

*8/9/04*

*David L.*

*file*

AUG , 5 2004

CERTIFIED MAIL NO. 7001 0320 0000 9689 4889  
Return Receipt Requested

Mr. Tom Oberbauer, Chief  
Multiple Species Conservation Program  
County of San Diego  
Department of Planning and Land Use  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Dear Mr. Oberbauer:

PROPOSITION 13 CONTRACT NO. 02-036-259-0 (CONTRACT), "OTAY RIVER  
WATERSHED MANAGEMENT PLAN" – NOTICE OF TERMINATION – CLARIFICATION

Please disregard the letter of termination, dated July 30, 2004 (enclosed), as it does not follow to the letter the requirements of termination according to Exhibit D of the contract agreement. This letter supercedes that letter.

Pursuant to Exhibit D, Section 9 of the Contract, this Contract is hereby terminated 30 days from the date of this letter.

Upon receipt of this letter, the County is hereby directed to do the following:

- a. Stop work no later than 30 days from the date of this letter;
- b. Place no further orders or enter into any further subcontracts for materials, services or facilities except as necessary to complete work under the agreement up to effective date of termination;
- c. Terminate all orders and subcontracts;
- d. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable settlement of all outstanding liability and claims arising out of termination of orders and subcontracts;
- e. Deliver or make available to the State Water Resources Control Board all data, drawings, specifications, reports, estimates, summaries, and such other information and material as may have been accumulated by the County under this agreement, whether completed, partially completed, or in progress.

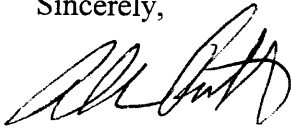
**California Environmental Protection Agency**

AUG , 5 2004

Under the terms of the Contract, authority to terminate the Contract is not subject to internal appeal under the disputes provision of the Contract (Exhibit D, § 1). This notice of termination constitutes final agency action on this matter.

Should you have any questions regarding this matter, please feel free to contact me at (916) 341-5661 or Ms. Alice Stebbins of my staff at (916) 341-5797.

Sincerely,



Allan Patton  
Assistant Division Chief  
Division of Financial Assistance

Enclosure

cc: Mr. John Robertus, Executive Officer  
San Diego Regional Water Quality Control Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92124-1324

Ms. Trish Boaz  
Environmental Resource Manager  
County of San Diego  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666



**Terry Tamminen**  
*Secretary for  
Environmental  
Protection*

# **State Water Resources Control Board**

## **Division of Financial Assistance**

1001 I Street • Sacramento, California 95814 • (916) 341-5700  
Mailing Address: P.O. Box 944212 • Sacramento, California • 94244-2120  
FAX (916) 341-5707 • Internet Address: <http://www.swrcb.ca.gov>



**Arnold Schwarzenegger**  
*Governor*

**JUL 30 2004**

Mr. Tom Oberbauer, Chief  
Multiple Species Conservation Program  
County of San Diego  
Department of Planning and Land Use  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

Dear Mr. Oberbauer:

### **PROPOSITION 13 CONTRACT NO. 02-036-259-0, "OTAY RIVER WATERSHED MANAGEMENT PLAN"--NOTICE OF TERMINATION**

Thank you for your letter, received on July 29, 2004 via e-mail (Enclosure 1), in response to the letter from Mr. John Robertus, Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board), dated July 28, 2004 (Enclosure 2). Mr. Robertus recommended termination of the above contract for reasons stated in the letter, and he provided facts to support the Regional Board's decision. Upon review of the contract file, and after consultation with legal staff of the State Water Resources Control Board's Office of Chief Counsel, we must agree with and support the Regional Board's recommendation.

While we appreciate your attempt to rectify the problems that have hampered the project, we do not feel that the project as described in the contract, and agreed to by the County of San Diego (County) by entering into contract with the State, can be completed within the timeframe of the contract term. Therefore, under authorization of the contract Standard Agreement Termination clause (Exhibit D, No. 9) and General Terms and Conditions (Exhibit C, No. 7 and No. 12), we are terminating this contract. The County may appeal this decision within 30 days of the date of this letter. The appeal should be addressed to:

Ms. Barbara Evoy, Chief  
Division of Financial Assistance  
State Water Resources Control Board  
1001 I Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814.

Mr. Tom Oberbauer

- 2 -

JUL 30 2004

Should you have any questions regarding this matter, please feel free to contact me at (916) 341-5661 or Ms. Alice Stebbins of my staff at (916) 341-5797.

Sincerely,

ORIGINAL SIGNED BY

Allan Patton  
Assistant Division Chief  
Division of Financial Assistance

Enclosures (2)

cc: Mr. John Robertus, Executive Officer  
San Diego Regional Water Quality Control Board  
9174 Sky Park Court, Suite 100  
San Diego, CA 92124-1324

Ms. Trish Boaz  
Environmental Resource Manager  
County of San Diego  
5201 Ruffin Road, Suite B  
San Diego, CA 92123-1666

### Regional Grant Funding Coordination for Implementation of Watershed Management Plans

Project Clean Water Summit  
July 15, 2004

David W. Gibson  
SDRWQCB  
gibsd@rb9.swrcb.ca.gov

Attachment 5

### SWRCB Funding Sources

- Proposition 13
- Proposition 40
- Proposition 50
- Federal 319(h) Non Point Source Program

Attachment 5

### Clean Beaches Initiative

- *Program Objectives: To Improve water quality at public beaches to meet ocean bacterial standards and restore and protect coastal water quality.*
- Eligible Applicants:
  - Local public agencies
  - non-profit organizations
- Eligible Projects:
  - Planning
  - Design
  - Construction
  - Monitoring & Reporting

Attachment 5

### CBI

- Phase I underway
  - 49 Projects competitively ranked for funding
- Additional Funds may be available from Prop. 50 in a later round
- Phase II anticipated in early 2005
  - October 2004 - Draft Guidelines/criteria
  - January 2005 - Workshops
  - March 2004 - Final Guidelines
  - June 2005 – Grants awarded

Attachment 5

### Agricultural Water Quality Grant Program

- *Program Objectives: To reduce or eliminate nonpoint source pollution discharged to surface waters from irrigated agriculture lands*
- Eligible Applicants:
  - Local public agencies
  - Non-profit organizations
- Eligible Projects:
  - Management Practices
  - Demonstration & Outreach
  - Effectiveness monitoring
  - Education and Outreach

Attachment 5

### AWQGP

- \$46 Million
- Revised guidelines to be released in July 2004
- August 4, 2004 - Public Workshop
- August 26, 2004 - SWRCB may adopt guidelines
- September 2004 - Release of Request for Proposals

Attachment 5

## AWQGP

- Monitoring Projects
  - Maximum grant = \$500,000
  - Matching requirement = 50%
- Implementation Projects
  - Maximum grant = \$1,000,000
  - Match requirements = 20%
- Can fund planning, design, and implementation

Attachment 5

## Federal 319(h)

- *Program Objective: To reduce, eliminate, or prevent water pollution from polluted runoff and enhance water quality in impaired waters.*
- Eligible Applicants: Local government, non-profit organizations, Indian Tribes, educational institutions.
- Eligible Projects: Implementation of management measures, TMDL implementation, technology transfers, demonstration projects, pollution prevention, technical assistance, restoration, citizen monitoring, public education and outreach

Attachment 5

## 319(h)

- \$5-6 million statewide
- Maximum grant = \$500,000
- Match requirements = 20%
- 2004 Linked to Prop. 40/50 AWQGP
  - Same deadlines
  - Same project priorities.
  - Contracts from Sept. 2005-Dec. 2009.

Attachment 5

## Water Recycling Grant Program

- *Program Objectives: To augment state and local water supplies and assist in implementation of CalFed-Bay Delta Programs.*
- Eligible Applicants: Public agencies
- Eligible Projects:
  - Facility/feasibility planning studies,
  - Final planning and environmental documents,
  - Construction of water recycling facilities.
- Facilities must replace use of state Project water and demonstrate direct benefits to State's Delta system.

Attachment 5

## Water Recycling

- \$42 million statewide
- Maximum Grant Amounts
  - Facility Planning 50% of study costs up to \$75,000
  - Construction – 25% of construction up to \$5,000,000
- When? Now!
  - Project questionnaire due July 23, 2004
- Competitive Project list posted on web.
- Workshops in August, adoption of guidelines in October

Attachment 5

## Small Community Wastewater Grant Program

- *Program Objectives: To assist small communities to meet water pollution control requirements.*
- Eligible Applicants: Cities, towns, counties, districts, Indian Tribes, other public entities serving areas with less than 20,000 and median household income less than \$37,994
- Eligible Projects: Planning, design, land purchase, engineering and administrative costs, construction of facilities.

Attachment 5

### Small Community Wastewater Grant Program

- \$30 million
- Maximum grant of \$2 million (90% of cost).
- Competitive Project List under development
  - Deadline Aug. 25, 2004
- Guidelines released for public comment

Attachment 5

### Integrated Regional Water Management Program

- Draft guidelines under review
- Revised draft guidelines scheduled for release July 30, 2004
- August 2004 - Public comment period
- September 2004 - Adoption of guidelines
- October 2004 – Release of Request for Proposals

Attachment 5

### IRWM

- \$381 million total
- Combined Dept. Water Resources and SWRCB grant program
- Three components of RFP
  - 1) Planning Funds Oct-Dec 2004
  - 2) Implementation Grants Jan. 2005
    - IRWM Plan Review
    - IRWM implementation projects evaluation

Attachment 5

### IRWM

- \$183 million available through SWRCB
- 40% committed to southern California projects
- However....

Attachment 5

### IRWM Eligibility Criteria

- Must have an IRWM “Group”
- Three agencies must be included
- Two agencies must have statutory authority over water
- The IRWM Plan must be adopted by all “appropriate” agencies

Attachment 5

### IRWM Criteria

- IRWM Plan must:
  - Have a regional description, map of agencies, and map of all proposed implementation projects
  - Projects must be inventoried and prioritized
  - Must include one or more regional objectives
  - Must describe regional benefits of plan implementation

Attachment 5

## IRWM Criteria

- IRWM Plan must:
  - Include at least 2 integrated water management strategies.
  - Document consideration of 10 water management strategies.
  - Include a technical analysis of data, methods, and analyses used in selection of water management strategies
  - Include an evaluation of potential negative impacts within the region of the plan's implementation

Attachment 5

## IRWM Criteria

- IRWM Plan Must:
  - Include identification of stakeholder involvement and process used for inclusion of stakeholders.
  - Discuss relation to local planning
  - Specify implementation measures, actions, projects, and studies and the responsible agency(ies) including linkages between projects
  - Include economic and technical feasibility on a programmatic level.
  - Include a specific schedule and prioritization for all projects.

Attachment 5

## IRWM Criteria

- IRWM Plan Must:
  - Identify beneficiaries and potential funding/financing for plan implementation.
  - Include discussion of measures used to evaluate project/plan performance, systems to gather performance data and mechanisms to adapt project operation and plan implementation.
  - Include a data management system
  - Address statewide priorities
  - Describe coordination with state and federal agencies.

Attachment 5

Is San Diego Ready to Compete  
for this \$380 million?

Probably Not.

Attachment 5

## What can we do?

- Organize!
- Bring partners and plans together
  - SDCWA?
  - SANDAG?
  - Cities, other counties?
  - Tribes?
  - Special Districts?
  - Others?

Attachment 5

## What Else Can We Do?

- Comment on draft Guidelines in August.
- Request planning funds to support organization and consolidation efforts.
- Work together on a watershed scale with the public deeply involved and well informed.

Attachment 5



### Other upcoming programs

- 2005 Consolidated Watershed/Non Point Source Pollution Control Grant Programs
- 2005 Small Community Groundwater Grant Program
- 2005 Dairy Water Quality Grant Program

Attachment 5



# California Regional Water Quality Control Board

## San Diego Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.swrcb.ca.gov/rwqcb9>

**Arnold Schwarzenegger**  
Governor

**ATTACHMENT B-5**

July 15, 2004

Mr. Dominic Gregorio  
Division of Water Quality  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

In reply refer to:  
**IC:12-0018.01:kneds**

Dear Mr. Gregorio:

**SUBJECT: REVISED COMMENTS ON THE PROPOSED EXCEPTION TO THE  
2001 CALIFORNIA OCEAN PLAN FOR THE UNIVERSITY OF  
CALIFORNIA, SCRIPPS INSTITUTION OF OCEANOGRAPHY**

This letter replaces my previous correspondence on this subject, dated June 21, 2004. I have reviewed the proposed Negative Declaration for the project entitled *Exception to the California Ocean Plan for the University of California Scripps Institution of Oceanography Discharges into the San Diego Marine Life Refuge Area of Special Biological Significance*. The exception would allow the California Regional Water Quality Control Board, San Diego Region (Regional Board) to consider Scripps Institution of Oceanography's (Scripps) request for renewal of their NPDES Permit, Order No. 99-83, to continue discharging wastewater to the San Diego Marine Life Refuge Area of Special Biological Significance (ASBS).

I support the State Water Resources Control Board (State Board) action in granting an exception to the California Ocean Plan for the University of California, Scripps Institution of Oceanography.

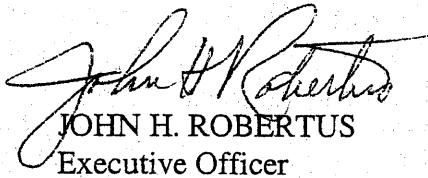
The exception would result in new knowledge about waste treatment at a major ocean research and public education facility. An overall result of approval of the exception is that Scripps would establish best management practices for stormwater and control of the use of antibiotics and chemicals and for the prevention of accidental releases of non-indigenous plants and animals to the ocean. Scripps's management programs may become models for other aquarium dischargers to ASBS and to other marine environments without ASBS designations. The Regional Board must provide oversight and vigilance to assure that the measures Scripps intends to implement are carried through effectively and consistently.

Scripps Institution of Oceanography submitted a Report of Waste Discharge to renew Order No. 99-83, NPDES Permit No. CA0107239 on May 14, 2004. A tentative Order is currently being drafted and if the State Board determines that certain terms and conditions listed in the Negative Declaration are necessary to grant the exception, the terms and conditions will be incorporated into the tentative Order. The Regional Board will consider the tentative Order at a separate Board meeting. If the State Board does not grant the exception, Order No. 99-83 will likely not be renewed and will be rescinded.

**California Environmental Protection Agency**

If you have any questions regarding this letter, the Scripps discharge, or would like to discuss our comments please contact Ms. Sabine Knedlik at (858) 467-2725 or e-mail her at [kneds@rb9.swrcb.ca.gov](mailto:kneds@rb9.swrcb.ca.gov).

Respectfully,

  
JOHN H. ROBERTUS  
Executive Officer

JHR:mpm:jrp:sk

CC: Larry Oberti  
Environment, Health and Safety  
University of California, San Diego  
9500 Gillman Drive  
La Jolla, CA 92093-0920

Kim Driver  
WTR-5  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Judy Gibson  
U.S. Fish and Wildlife Service  
6010 Hidden Valley Road  
Carlsbad, CA 92009

Eric J. Larson  
Ecosystem Coordinator  
Department of Fish and Game  
4949 Viewridge Avenue  
San Diego, CA 92123

Alfred L. Wanger, Deputy Director  
Energy, Ocean Resources and Water Quality  
Division  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Ms. Linda Sheehan, Director  
Pacific Regional Office  
The Ocean Conservancy  
116 New Montgomery Street, Suite 810  
San Francisco, CA 94105

Environmental Health Coalition  
Clean Bay Campaign  
1717 Kettner Boulevard, Suite 100  
San Diego, CA 92101  
Attn: Laura Hunter

San Diego BayKeeper  
2924 Emerson Street, Suite 220  
San Diego, CA 92106  
Attn: Bruce Resnik

Mr. Ed Kimura  
Sierra Club  
3820 Ray Street  
San Diego, CA 92104-3623

Mr. Marco Gonzalez  
Surfrider Foundation  
San Diego Chapter  
PO Box 1511  
Solana Beach, CA 92075

Mr. David Beckman  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401

Dr. Anthony F. Michaels, Director  
USC Wrigley Institute for Environmental  
Studies  
University of Southern California  
AHF 232  
Los Angeles, CA 90089-0371



# California Regional Water Quality Control Board

## San Diego Region



**Terry Tamminen**  
Secretary for  
Environmental  
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.swrcb.ca.gov/rwqcb9>

**Arnold Schwarzenegger**  
Governor

**ATTACHMENT B-8**

July 29, 2004

In reply refer to:  
MW: 82-0073.02: michp

Mr. David Merk, Director  
Environmental Services  
San Diego Unified Port District  
P.O. Box 120488  
San Diego, CA 92112

Ms. Karen Henry  
Storm Water Pollution Prevention  
Metropolitan Wastewater Department  
City of San Diego  
1970 "B" Street, Mail Station 27A  
San Diego, CA 92102

Mr. Greg Blakely, Director  
Water Utilities Department  
City of Oceanside  
300 North Coast Highway  
Oceanside, CA 92054

Mr. Lupe Armas, Director  
Environmental Security  
Marine Corps Base  
Camp Pendleton, CA 92055

Mr. Larry McKenny  
Public Facilities and Resources Department  
County of Orange  
P.O. Box 4048  
Santa Ana, CA 92702

Dear Sirs:

**SUBJECT: REQUEST FOR DEVELOPMENT OF MONITORING PLANS**

This is to acknowledge receipt of the MEC Analytical Systems 2004 report in February, *Technical Report: Harbor Monitoring Program for San Diego Region*. I agreed at the November 24, 2003 meeting in Oceanside to accept a report presenting the design principles for the monitoring program as a preliminary step toward establishment of a comprehensive coordinated harbor monitoring program. Our comments on the report are presented in Attachment 1.

The principal purpose of this letter is to acknowledge the excellent effort made in completing the technical report and to request the harbor agencies follow up this report with a submittal of a coordinated comprehensive monitoring plan for the five harbors including the U.S. Marine Corps' Del Mar Boat Basin at Camp Pendleton.

**California Environmental Protection Agency**

Even though a framework plan has been completed, considerably more effort will be needed to develop and implement a comprehensive and long-term monitoring program for water quality in San Diego Region harbors. There is some urgency in implementing a monitoring program. Recently the State Water Resources Control Board has agreed to provide \$100,000 of Surface Water Ambient Monitoring Program (SWAMP) funds to the Regional Board in Fiscal Year 2004-05. This effort will be part of the Regional Board's participation in the harbor monitoring program. The Regional Board intends to address dissolved copper and toxicity in marinas.

Municipal storm water conveyance systems discharge wastes to the five harbors. The County of Orange, U.S. Marine Corps, City of Oceanside, City of San Diego, and Port of San Diego are the agencies responsible for administration of land and water use programs in the harbors. Regional Board water sampling has shown elevated dissolved copper levels in marina areas in which recreational or commercial vessels are concentrated. All five harbors contain recreational boat marinas.

To encumber SWAMP funds from the State Water Resources Control Board, the Regional Board needs to submit a scope of work for a contract between the State Board and the Southern California Coastal Water Research Project (SCCWRP). Because of the need for programs funded by SWAMP to contribute monitoring data to the SWAMP database, a significant portion of this funding will entail collection and analysis of water quality samples. An appropriate portion of the SWAMP funding could also be used to cover the following Regional Board activities: (1) determination of methods for addressing dissolved copper and toxicity in marinas, (2) establishment of a copper and toxicity quality assurance program, (3) establishment of a database for analytical data and metadata, and (4) reporting.

A comprehensive coordinated monitoring program will need to address the five harbors and will include a list of entities or persons contributing significantly to waste loading in harbors. The Regional Board intends to require these contributing parties to participate in the coordinated monitoring effort. In the absence of such participation, however, the Regional Board expects the harbor agencies to implement the monitoring program. The proposal for the first year of the monitoring program should be coordinated with the monitoring effort to be proposed by the Regional Board. To take advantage of the near-term Regional Board effort, the harbor agencies need to submit a detailed harbor monitoring proposal by the end of September so my staff can insure coordination with the scope of work for the SCCWRP contract.

Pursuant to Section 13267 of the California Water Code, I request submission of a technical report by September 30, 2004. The report would consist of a proposed coordinated, comprehensive, and detailed harbor water quality monitoring program. I request your agency acquire and analyze information, produce maps, identify indicators, establish threshold levels, establish targets, determine an approach for quality assurance and quality control, develop a quality assurance project plan (QAPP), and plan for establishment of a database for data and metadata. Progress reports would be submitted to the Regional Board. I further request that the

list of contributors of wastes to the harbors be submitted by September 30, 2004. The Regional Board expects to require that the harbor monitoring program begin by January 1, 2005.

Section 13267 of the California Water Code states in part:

*"13267. (a) A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement authorized by this division, may investigate the quality of any waters of the state within its region.*

*(b) (1) In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."*

Thank you for your participation to date. If you have any questions about this request please contact Pete Michael at (858) 467-2990. To assist us in processing your correspondence, please include the In Reply code number in the heading or subject line.

Sincerely,



John H. Robertus  
Executive Officer  
San Diego Regional Water Quality Control Board

cc: Chris Crompton, Co. of Orange  
Guss Pennell, City of Oceanside  
Ruth Kolb, City of San Diego  
Karen Helyer, Port of San Diego

Valerie Connor, Division of Water Quality  
Michael Lyons, Los Angeles Regional Board  
Wanda Smith, Santa Ana Regional Board  
Terry Fleming, USEPA Region 9  
Dr. Steven Weisberg, Coastal Water Research (SCCWRP)  
Dr. Art Barnett, MEC Analytical

July 29, 2004

## ATTACHMENT 1

### Observations on the MEC Technical Report

The 2004 MEC Technical Report presented design principles for a proposed harbor monitoring program for four harbors in the San Diego Region. There were five questions in the July 24, 2003 letter which were addressed directly or indirectly in the report:

1. What are the contributions and spatial distributions of inputs of pollutants to harbors in the San Diego Region and how do these inputs vary over the long term?
2. Are the waters in harbors safe for body contact activities?
3. Are fish in the harbors safe to eat?
4. Do the waters and sediments in the harbors sustain healthy biota?
5. What are the long-term trends in water quality for each harbor?

The MEC Technical Report also considered these topics from the letter:

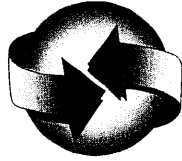
- Identification of contributors of waste loading.
- Development of an ambient monitoring program.
- Development of focused monitoring approaches.
- Coordination and integration with the Southern California Bight regional marine monitoring program.
- Minimization of duplication of effort with compliance permit monitoring.
- Provision for electronic data and data retrieval.
- Provision for availability of reports for public review.

The following observations relate to the February 2004 MEC Technical Report for San Diego Bay, Mission Bay, Oceanside Harbor, and Dana Point Harbor.

- Page 4. Fish tissue sampling frequency. Such sampling could be conducted over the long term as suggested in the MEC report.
- Pages 5, 11. Fresh water inputs. This stratum appears appropriate for identifying trends in waste loading. Sampling should also occur during the wet season when the storm drains discharge.
- Page 6. Fish stratum. The suggestion to avoid comparing fish strata within a harbor seems appropriate because of the migratory nature of fish species. The report notes that fish from each harbor area could be compared between harbors, however.
- Page 7. Eightieth percentile indicator thresholds. The 80<sup>th</sup> percentile may be appropriate, but further discussion is needed on this confidence level. The report acknowledges this need.



- Page 8. Compatibility with the Bight regional marine monitoring program. Sampling in the summer months may be appropriate for most sampling efforts. Sampling for storm runoff may also be appropriate during the wet season.
- Pages 15, 16. Power analysis. Such analysis could increase the efficiency of the monitoring program and reduce costs.
- Page 18. Compliance monitoring and ambient monitoring. SWAMP funding cannot be used for compliance monitoring.
- Page 21. Copper sampling. An approach using ambient sampling methods could simplify justifying the use of SWAMP funding for this activity.
- Page 26. Mapping and aerial photographs. Such information will be valuable for creating a geographic information system and documenting copper loading trends.
- Page 26. Five stations per marina. The term “marina area” could mean individual business with ten or more slips or an embayment containing one or more marinas.
- Page 26. Estimates of copper leaching rates. Newer Navy data than Ken Schiff’s may demonstrate different copper leach rates.



**Citizens for  
Environmental  
Solutions**

June 7, 2004

Vickie Butcher  
CA Regional Water Control Board, Region 9  
9174 Sky Park Court, Ste. 100  
San Diego, CA 92123-4340

Dear Ms. Butcher:

The owners of a North County gambling casino are attempting to qualify an initiative that would eliminate North County's only landfill.

After decades of debate regarding an appropriate site for a North County landfill to replace the closed San Marcos Landfill, Proposition C established Gregory Canyon as the designated site for this facility in 1994. After receiving the support of the County Board of Supervisors and cities throughout the County, the Gregory Canyon landfill is now an integral part of San Diego County's Solid Waste Plan, designed to meet the State-mandated disposal needs of residents and businesses for the next 15 years.

Since voter approval of Proposition C ten years ago, the County Department of Environmental Health has served as the lead agency for preparation of an Environmental Impact Report for the Gregory Canyon landfill. That EIR was certified on February 6, 2003. Strict county, state and federal regulations guarantee that Gregory Canyon will be the most environmentally-friendly landfill in California.

As a May 30 editorial in the *San Diego Union-Tribune* pointed out, "Without Gregory Canyon, North County garbage will have to be trucked to San Diego and elsewhere, which would cause all kinds of problems, including air pollution from truck trips and landfill capacity problems." It would also increase freeway traffic congestion, and would create a virtual monopoly on waste disposal in the county, threatening residents and businesses with significant increases in disposal fees.

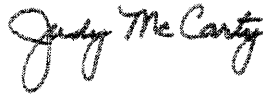
Why is the gambling casino spending hundreds of thousands of dollars to block Gregory Canyon? That same *San Diego Union-Tribune* editorial made it clear: "Garbage trucks going to and from Gregory Canyon will compete for space on Highway 76 with patrons of the Pala Casino. It's understandable that the Pala tribe doesn't want a landfill nearby, considering its investment in the casino. But that makes this new initiative...a special-interest issue, not a public-interest issue."

On behalf of Citizens for Environmental Solutions, supporters of the Gregory Canyon landfill, we request an opportunity to make an informational presentation to your organization, and we urge you to view with caution the deceptive claims being made by gambling casino owners and their paid consultants.

Sincerely,



Bob Simmons  
Retired USD Law Professor  
and Environmental Attorney



Judy McCarty  
Former San Diego  
City Council Member



Jim Simmons  
Former San Marcos  
Planning Commissioner

Enclosures:

Fact Sheet

*Union-Tribune* editorial

*North County Times* editorial

Sunday

May 30, 2004

The San Diego  
**Union-Tribune.**

Final

**EDITORIAL**

# Indians opposed

## North County needs Gregory Canyon landfill

**T**he ballot initiative process in California originated nearly a century ago because special interests had taken over state government and the public needed direct democracy to overcome these entrenched powers.

Today, special interests have taken over the ballot initiative process, which no longer resembles direct democracy as much as it does the purchasing of votes. A volunteer effort has little chance of making the ballot these days. But monied interests willing to pay top dollar for signature gathering and slick advertising campaigns can get whatever they want on the ballot.

One of the most transparent special-interest campaigns is now shaping up in San Diego County, where the Pala Indian tribe is spending large sums for a ballot initiative to undo another ballot initiative. The tribe's target is a decade-old, voter-approved measure to allow a landfill and recycling center at Gregory Canyon in North County.

Granted, the original initiative, Proposition C, was paid for in part by the interests that will operate the dump. However, it was approved by 68

percent of voters because growing North County desperately needs a place to dispose of its garbage. Without Gregory Canyon, North County garbage will have to be trucked to San Diego and elsewhere, which would cause all kinds of problems, including air pollution from truck trips and landfill capacity problems.

Regions need to handle their own trash. They can't shirk the problem onto someone else. Gregory Canyon is a simple infrastructure solution for a growing region that needs more landfill space. Voters recognized that when they passed Proposition C in 1994.

However, to hear the Pala Indians tell it, through their ballot campaign, called "Citizens for Safe Drinking Water," Gregory Canyon will poison our water supply, kill off endangered species, defile sacred land and waste tax money. The drinking-water canard is based on the fact that Gregory Canyon is within the watershed of the San Luis Rey River, which supporters call a "vital source of local drinking water."

First of all, every inch of land on this planet is in the watershed of some water course,

whether it's Gregory Canyon or a cornfield in Iowa. What's more, San Diego County imports the vast majority of its water supply; calling San Luis Rey River a "vital source" is stretching it. But more importantly, all of these environmental and sacred site claims were dealt with 10 years ago. New landfills are heavily regulated and built so that they're environmentally sound. Urban runoff from development, including the Pala Casino complex, is likely much more detrimental to the environment.

The major change in the last 10 years has been the expansion of the Pala Casino, and that's the real issue here. Garbage trucks going to and from Gregory Canyon will compete for space on Highway 76 with patrons of the Pala Casino. It's understandable that the Pala tribe doesn't want a landfill nearby, considering its investment in its casino. But that makes this new initiative to undo Proposition C a special-interest issue, not a public-interest issue. Voters who are bombarded with claims and counterclaims between now and the next election should remember that.

# NORTH COUNTY TIMES

SATURDAY, June 4, 2004

## Don't trash the dump

JIM TRAGESER  
Staff Writer

Everyone in North County who produced no trash last year is invited to a meeting at the Bonsall phone booth. Should be plenty of elbow room, frankly. Even the most recycling-savvy consumer can't help but produce at least a modest stream of refuse in our modern economy. After recycling all the glass, metal and paper from our daily lives, there is always something ---- usually plastic ---- that can't be reused.

Clearly, it has to go somewhere ---- yet a decade after we voters overwhelmingly approved the Gregory Canyon landfill site, opponents again are threatening hearings, lawsuits and whatever else can be thrown in its path.

Does anyone really believe we don't need a place to put our trash? Ever since the San Marcos landfill reached capacity and was closed some years back, North County's trash has been hauled to the Miramar landfill, down in San Diego proper. That reality doesn't jibe with North County's predilection for feeling put upon by San Diego, but there you have it.

But even Miramar will fill up someday, while we continue to produce trash ---- trash that has to go somewhere.

The problem, of course, is that in our modern age of narcissism, everybody wants all the modern conveniences but nobody wants the less-desirable portions of the infrastructure required to provide those conveniences. So every item we buy is lavishly packaged, with all sorts of disposable frills that end up being discarded once the toy or trinket is opened.

This consumer narcissism extends far beyond trash.

We all want cheaper gas ---- but won't stand for having a new refinery or port built nearby.

We want a reliable supply of electricity, with no more rolling blackouts ---- but don't try to build a generating plant in our community.

The problem is that everyone feels the same way, so there is no political consensus on where to build things such as airports, refineries, generating plants or landfills.

Interestingly, at the same time our supposed environmentalists are trying to block

Gregory Canyon, a new report shows that most glass and plastic bottles still go into landfills ---- accelerating the rate at which the dumps will reach capacity.

Reducing the flow to the landfills is the best, most sane approach to our growing trash problem. Curbside recycling has done a very good job of getting us into the recycling habit. But until and unless we move beyond our consumer-based economy (not bloody likely), we're going to continue to need a place to put the refuse we do generate. And it's hard to see how anyone who is contributing to the stream of trash has the moral authority to argue against it.

Here's a challenge: If you are actively opposing Gregory Canyon, propose a realistic alternative that you will work to see put in place. Dumping it in the ocean or hauling it to Mexico doesn't count.

We create the trash; we have an obligation to dispose of it safely.

Simply saying "no" isn't enough.

# **GREGORY CANYON FACT SHEET**

## **HISTORY**

In 1994, Proposition C was approved by 68% of voters countywide. It amended the county's General Plan to designate North County's Gregory Canyon for a landfill and recycling center. In approving this measure, county voters rejected inaccurate arguments by representatives of the Pala tribe and other landfill opponents who claimed erroneously that the landfill would pollute ground water resources and the San Luis Rey River, and that it would impact sacred Indian sites.

Gregory Canyon was identified as a potential site for a new North County landfill by the San Diego County Board of Supervisors in 1991. It was one of eight sites considered as a replacement for the San Marcos landfill, North County's only landfill, which reached capacity and closed in 1997. The 308-acre Gregory Canyon landfill will be developed on 1,770 acres, adjacent to State Route 76, and about three miles east of Interstate 15. An additional 1,300 acres at the Gregory Canyon site will be dedicated as permanent open space, which will become part of the county's Multiple Species Conservation Program.

## **NEED**

San Diego County's Solid Waste Plan relies on the Gregory Canyon landfill to meet the County's solid waste disposal needs over the next 30 years. San Diego County currently generates more than 3.3 million tons of trash each year. Over 1,500 tons of garbage is collected daily in North San Diego County alone. The Gregory Canyon landfill would be able to accommodate 1 million tons of solid waste per year for 30 years. If the Gregory Canyon site is eliminated, there is no other landfill project on the horizon to address the waste disposal needs of San Diego County. The ramifications of losing the Gregory Canyon landfill project are numerous, including:

North County waste will have to be transported to one of the three rapidly-filling sites in the county: Sycamore, Otay or Miramar.

By having to transport North County trash to the three distant landfills, thousands of additional trucks will be forced onto already congested freeways.

All landfills in San Diego County will be controlled by a single private disposal company, giving them monopoly control over disposal rates, potentially resulting in dramatic increases in disposal costs for San Diego County residents and businesses.

## **ENVIRONMENTAL REVIEW**

After county voters approved Proposition C in 1994, the landfill was subjected to 10 years of environmental review by the San Diego County Department of Environmental Health, which recently certified the project's Environmental Impact Report (EIR). Gregory Canyon will be the safest, most environmentally protected landfill in California. The landfill's liner system provides for over 7.5 feet of materials designed to prevent any leakage or contamination of surrounding water tables. The liner system is also designed to detect any leakage if it should occur, and an on-site water treatment facility will be at hand to treat any contaminated water. In order to begin construction, the landfill will also have to be approved by the California Regional Water Quality Control Board.

## **WATER QUALITY**

The Gregory Canyon landfill will provide an unprecedented level of protection to the water quality in the region. The liner system would be the only 5-layer, double composite system in any California solid waste landfill. In addition, there will be a system dedicated to the collection and containment of landfill liquids, a two-phase surface water control system, and two early detection systems. Finally, the redundant protective system will include a dedicated groundwater treatment plant, thus adding a final level of protection to preserving the quality of the water in the surrounding area.

## **OPPONENTS**

The Pala Band of Mission Indians has opposed the Gregory Canyon landfill since it was first identified by San Diego County as a potential site in the late 1980s. Funded primarily from gambling profits derived from their casino located at the foot of Gregory Mountain, the Pala Casino has attempted through lawsuits, campaign contributions and Sacramento lobbying to block the landfill. When these efforts failed, their attorneys drafted a ballot measure and paid signature gatherers were hired in an attempt to qualify the measure for the ballot. The Pala Casino's political consultant has said they are prepared to spend \$2.5 million to secure voter approval for their initiative.

The casino and proposed landfill would utilize the same two-lane highway – State Route 76 – to access their respective sites. The landfill has agreed to pay for road improvements, including turn lanes and widening, to accommodate the additional traffic the project will generate. But the Pala Casino has thus far been unwilling to pay for needed improvements to SR 76 to accommodate casino traffic, which constitutes over 90% of the projected vehicle trips on the road. The majority of the existing truck traffic on SR 76 is generated by the casino's tenant, an aggregate quarrying company.



# California Regional Water Quality Control Board

## San Diego Region



Terry Tamminen  
Secretary for  
Environmental  
Protection

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340  
(858) 467-2952 • Fax (858) 571-6972  
<http://www.swrcb.ca.gov/rwqcb9>

Arnold Schwarzenegger  
Governor

**ATTACHMENT B-13c**

July 30, 2004

Dr. Robert Simmons  
Ms. Judy McCarty  
Mr. James Simmons  
Citizens for Environmental Solutions  
330 Encinitas Boulevard, Suite 101  
Encinitas, California 92024

In reply refer to:  
**LD:06-0024.02:tamac**

Dear Dr. Simmons, Ms. McCarty and Mr. Simmons:

**RE: LETTER TO MS. VICKIE BUTCHER REGARDING PROPOSED GREGORY CANYON LANDFILL**

The purpose of this letter is to acknowledge receipt of your letter, addressed to Ms. Vickie Butcher and dated June 7, 2004, by the California Regional Water Quality Control Board, San Diego Region ("*Regional Board*"). We received your letter and the enclosures on June 9, 2004.

Thank you for keeping the Regional Board informed on your views regarding the proposed Gregory Canyon Landfill and providing the additional information for our consideration. The staff is preparing an Executive Officer's (EO) Report item (including the enclosures with your letter dated June 7, 2004) for the next meeting Regional Board on September 8, 2004. Although we have not scheduled a separate agenda item for this topic, you are welcome to address this issue to the Regional Board during the Public Forum on September 8, 2004. The Regional Board meeting will be held at the Regional Board offices located at **9174 Sky Park Court, Suite 100, San Diego** and begin at 9 A.M. After August 16, 2004, additional information about the September Regional Board meeting will be posted on our web site at:

<http://www.swrcb.ca.gov/rwqcb9/rb9board/meetings.html>.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

**California Environmental Protection Agency**



Recycled Paper




Dr. Robert Simmons  
Ms. Judy McCarty  
Mr. James Simmons  
Proposed Gregory Canyon Landfill

- 2 -

July 30, 2004

If you have any questions regarding this letter, please contact Mr. John Odermatt at (858) 637-5595 or via email at [oderj@rb9.swrcb.ca.gov](mailto:oderj@rb9.swrcb.ca.gov)

Sincerely,

  
JOHN H. ROBERTUS  
Executive Officer

JHR:jro

# Legal views

Elizabeth Dietzmann

ATTACHMENT C-1

## Maintenance agreements—what is the point anyway?

Maintenance agreements or service contracts play a key role in the EPA's idealized management models for individual onsite systems that utilize "advanced" technology. "Maintenance" is the mantra on everyone's lips these days, and I am as guilty as everyone else of giving lip service to the idea that you must have a service contract for onsite systems. We all know that you cannot put these advanced systems in the ground, cover them with dirt, and walk away. Most states already require aerobic treatment units (ATUs) and some other "pre-engineered" or "package" treatment systems with NSF certification to Standard 40, Class 1 effluent to be sold with a two-year warranty and a service contract. Some state regulatory agencies are even considering requiring ongoing or "perpetual care" contracts for ATU's or surface discharging systems. So we are in agreement that we have to have service contracts and warranties for on-site systems.

The problem is that service contracts and warranties do not cover drainfields. In addition, they do not cover any performance monitoring, so we do not really know if a "maintained" system is even producing clean effluent before it goes into the drainfield. Service contracts give homeowners a false sense of security. The manufacturer of an advanced treatment system is required to provide evidence that the system can meet a particular performance standard and is required to provide a two-year warranty. The homeowner may be required to purchase a maintenance contract, but none of the warranties or service contracts cover the soil component of the system, and the soil scientist or soil evaluator is not required to warranty the soil system (drainfield) or monitor its performance or provide any drainfield maintenance. There is a huge disconnect between maintenance of the parts of the system. The moving parts of the advanced

treatment component are maintained, but the soil component is pretty much ignored.

Typically, service visits include checking blowers, filters, and tanks, cleaning system components, and possibly performing a visual and olfactory examination of the treatment system effluent. This is usually done a couple of times a year for a few hundred dollars a year. I have accompanied a number of service providers on their rounds and watched them listen to the blowers and eyeball dipped samples of tank effluent. Admittedly, many of these service providers are conscientious, and they keep the mechanical parts of the system running. But what about the drainfields? I have never reviewed or written a service contract that covers the drainfield, and based on many of the discussions I have had with folks in the industry, the drainfield is the elephant in the room that everyone wants to ignore. In conversation with developers, installers, and designers, I hear that someone else is always to blame if a drainfield fails or no one can tell why a drainfield fails, so the response is "What can you do?" And I think drainfields are failing.

Based upon surveys conducted by the National Small Flows Clearinghouse, in 1993, approximately 395,000 permits were issued for onsite wastewater systems in the U.S. In 1998, approximately 412,000 permits were issued. The number of repair permits issued in 1993 was approximately 99,250 or about 25.1 percent of the number of permits for new systems. The number of repair permits issued in 1998 was approximately 93,600, or 22.7 percent of the number of permits for new onsite systems. Interestingly enough, during 2002 and 2003, I know of a consultant who has intensively monitored a set of advanced treatment systems, and 3 of 12 of the systems experienced drainfield problems. The systems produced very high-quality effluent that was dosed to the drainfields, but 25 percent of the

drainfields exhibited surfacing effluent for some part of the year and had to be repaired. Although the 1993 and 1998 survey data do not indicate how many drainfields were repaired, coincidentally enough, the percentage of repairs in the drainfield area for the 2002 and 2003 project is consistent with the '98 and '93 data. You certainly can conclude that the majority of the '93 and '98 repair permits were issued to deal with drainfield problems. So if system failures are concentrated in the drainfields, that is probably why no one wants to step up to the plate and cover drainfields. Drainfields seem like a big gamble anyway. The soil scientists have convinced me that soil is mysterious, it's not uniform, and it has these uncontrollable, indefinable characteristics that cannot be accurately modeled or predicted. Maybe you cannot ever warranty that the drainfield will really work. So who cares if the drainfield fails? If the effluent going into the drainfield is clean, what does it matter? As long as the service contract keeps the advanced technology running, maybe that is enough.

I could probably buy that argument, except for the fact that the sight and smell level of maintenance under most service contracts may not really indicate whether or not the effluent is pathogen free. Which leads me to my next point: Regulatory agencies require service contracts but no compliance monitoring, and even if they require compliance monitoring on the books, they do not enforce it. So we have service contracts that do not cover drainfields, which often fail, and all the contracts do is make sure that the blowers are blowing, pumps are pumping and things are clean.

By comparison, operators of municipal treatment systems and other systems with individual NPDES permits are required to provide licensed wastewater operators, collect compliance samples on a regular and specified frequency, and provide analytical results in a particular format—the Discharge Monitoring Report, or DMR.

I have heard the response that compliance monitoring for individual homeowners presents an unreasonable financial burden, that the couple of hundred bucks a year charged for a service contract will not cover the sampling and analytical costs for compliance monitoring of biochemical oxygen demand (BOD<sub>5</sub>) and total suspended solids (TSS). Regulatory agencies are unwilling to force the financial burden upon the homeowners for compliance monitoring. It seems that no one is willing to take the next step and enforce the requirement that the treatment system actually produce the effluent quality that it was designed and approved to produce. Has public health and environmental protection taken a backseat to protecting the homeowner's financial well-being? How do we know that these systems are operating properly, and doesn't this become more

crucial if we acknowledge that the drainfields are just too tricky to guarantee?

Some regulatory agencies are considering "operational monitoring" as an alternative to "compliance monitoring." Apparently, they are looking at testing turbidity and dissolved oxygen (DO), since these parameters could be easily and inexpensively monitored in the field. Some regulators and researchers believe that if the turbidity is acceptably low, and the dissolved oxygen is acceptably high, then the system must be producing an acceptable effluent for discharge to the drainfield. This makes sense to me. If no one is maintaining the drainfields anyway, and there is a more cost effective way of monitoring what goes into the drainfields, maybe we should revisit the regulatory rationale for measuring BOD<sub>5</sub> and TSS? If the goal is to meet particular BOD<sub>5</sub> and TSS concentrations, then why aren't we measuring BOD<sub>5</sub> and TSS? If that is too expensive, but measuring low turbidity and high DO concentrations would work, then why not write the NPDES permit and the NSF certification protocol to reflect this?

Before we get too comfortable relying on partial service contracts and nonexistent monitoring, maybe we need to look at a combination of revised, realistic operational monitoring and a requirement that SOMEONE step up to the plate and accept responsibility for the drainfield. Maybe we need to revisit the roles and responsibilities of the parties involved—the installer, the builder, the system manufacturer, the designer, soil evaluator, the service provider—and require that someone warranty the drainfield just like the treatment system is warrantied, so that the drainfield is included in a systemwide warranty and maintained under a service contract. Let's start thinking about this as a system rather than as separate components of the treatment followed by the dispersal. At the same time, we need to make sure that the treatment systems are really working and require some realistic and affordable level of monitoring. Maybe this combination of factors would make service contracts really have some value to the homeowner and protect the public health at large.

**Elizabeth Dietzmann, J.D.,**

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